



FPANT

MEMORANDUM

November 15, 2007

TO: All FPANT Members
FROM: FPANT Code Committee
RE: Existing Non-UL 300 Compliant Kitchen Hood Extinguishing Systems

Dear Member:

The following memorandum was reviewed and accepted by the membership by majority vote at the November 14th, 2007, meeting of FPANT as the recommended practice with regards to the issues described. Please note that this is only a recommendation intended to assist FPANT members in their respective jurisdictions with a simple guideline on the issue having the overall goal of creating more consistency across jurisdictional boundaries for this region. Certainly, it is up to each individual authority to determine the preferred practice in their jurisdiction.

INTRODUCTION/BACKGROUND:

The Code Committee has evaluated the issue of Non-UL 300 Compliant Kitchen Hood Extinguishing Systems and the upcoming red tag requirement stipulated by the Texas Administrative Code, Title 28, Part I, Chapter 34, Subchapter E. "Fire Extinguisher Rules".

It should be recognized that as of April 1, 2006, licensed fire extinguishing contractors were required by the state law mentioned above to yellow tag Non-UL 300 Compliant Kitchen Hood Extinguishing Systems at their next inspection/service. The law also states that "The owner or the owner's representative must be notified in writing that the system does not comply with UL Standard 300 and that the system may not extinguish a typical fire, that a red tag shall be attached to the system after January 1, 2008, and that the owner should consider replacing or upgrading the system before that time. A copy of the written notice to the owner shall be postmarked, e-mailed, faxed, or hand delivered to the AHJ within 5 business days."

So, as of January 1, 2008, such non-compliant systems must be red tagged by the licensed contractor, in accordance with state law, and "The registered firm shall notify the owner or his representative immediately and must also notify the local authority having jurisdiction (AHJ) when available within 24 hours by phone, fax, or e-mail describing the impairments or deficiencies. A copy of the written notice to the owner shall be submitted to the AHJ within 3 business days. A completed red tag must be attached to indicate that corrective action or replacement is necessary. The signature of the licensee on the tag certifies that the impairments listed indicate that the equipment is unsafe or inoperable. A service tag must not be attached until the impairments have been corrected or the portable extinguisher or fixed system replaced and the extinguisher or fire extinguisher system re-inspected and found to be in good operating condition."

ISSUES/CONCERNS:

This is of concern to local Fire Marshals and other Authorities Having Jurisdiction for multiple reasons.

1. The State Fire Marshal representative who spoke to FPANT previously as to this matter specifically indicated that it will be up to the local AHJ to determine how best to deal with the red tag issue. The state law simply requires that such systems be red tagged beginning 1/1/08.
2. If an AHJ determines that the red tag is not a significant threat to life safety and allows operations to continue with the red tag in place, there is a fear that this may place potential liability on the AHJ for allowing said condition to exist without correction, especially since the state law requires the red tag on the system.
3. Licensed contractors will not likely service/maintain red tagged systems since they are not allowed by state law to place a service tag on a red tagged system and also due to similar potential liability.
4. This has major cost ramifications for business owners, as well as organizations, such as schools, jails, city facilities, etc. Replacement or upgrade of these systems may cost thousands of dollars depending on the size of the systems and also potential issues with the associated kitchen hoods.
5. Consideration was given to allowing cooking operations to continue as long as any deep fat fryers were shut down since that was the major issue promulgating the change to UL 300. However, that does not eliminate the red tag problem, nor the servicing of such systems.

Basically, without a change to the state law, the local fire marshal will be faced with red tag notification of a fire protection system and must make determination on allowed time for the operator/owner of such system to replace/upgrade such system for compliance.

RECOMMENDED PRACTICE:

It is the FPANT Code Committee's recommendation, as adopted by the membership on November 14th, 2007, that our members address this matter consistently across jurisdictions in an attempt "to put forth a more unified statement from the group of North Texas fire prevention personnel represented in coordinating, adopting and passing laws, codes, ordinances, local policies, and amendments regarding fire and life safety for the public welfare in the Dallas/Ft. Worth metroplex and the state of Texas" in accordance with the Purpose and Objectives of FPANT's Constitution and By-Laws.

The red tag placed on the system as per State law is to indicate "Equipment Impaired". As such, the Code Committee does not believe that an AHJ should allow such tag to remain for an extended period of time on an operating system without some means of mitigating the fire hazard. Again, since the deep fat fryer is the primary fire risk and issue associated with this required change, it is the Code Committee's recommendations that AHJ's require that use of any deep fat fryer be discontinued until such red tag issue is corrected by replacing/upgrading the kitchen hood extinguishing system to comply with UL 300 requirements.

The recommended duration to allow for correction of the red tag issue is a maximum of 6 months. This is much longer than would normally be allowed for red tag correction on a typical fire protection system. However, without the deep fat fryer in operation, the uncontrolled fire risk associated with the cooking operations are tremendously reduced. Additionally, the State law allowed such systems to remain in place with an operating deep fat fryer for 1 ½ years with a yellow tag on the system warning of the impending arbitrary date of 1/1/08 for placement of a red tag. The reason to not allow a longer duration is the issue of the required 6 month service/inspection of such systems by the Fire Code, and licensed contractors are not allowed to place a service tag on such red-tagged systems, per State law – also they would face liability issues.

CONCLUSION:

The FPANT Code Committee recommends that AHJ's respond to red tags for non-UL 300 compliance on kitchen hood extinguishing systems as follows:

1. Require deep fat fryers to be disconnected, such that they may not be utilized until the red tag issue is corrected.
2. Require the receipt of a documented contract with a licensed contractor within 30 days and that the red tag issue be corrected prior to the next required 6 month service/inspection for the system. Extensions may be granted at the discretion of the AHJ in the event that the industry/contractor becomes overwhelmed with requests.

Please note that is at the AHJ's discretion as to the maximum 6 month duration to correct the red tag. It may be advisable for the AHJ to simply require a contract within 30 days and simply require correction as soon as possible, leaving the proposed completion date up to the operator and contractor to work out, but not allow such to exceed the required date of the next 6 month service/inspection for such system.

Again, this is only a recommendation, and it is up to each individual authority to determine the preferred practice in their jurisdiction.

Submitted by:

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2007 Vice President and FPANT Code Committee Chairman